

STATE OF NEW YORK

5903

2025-2026 Regular Sessions

IN ASSEMBLY

February 24, 2025

Introduced by M. of A. JACKSON -- read once and referred to the Committee on Judiciary

AN ACT to amend the domestic relations law, the family court act and the public health law, in relation to creating an exemption to the presumption that a child born in wedlock is the child of the birth parent's legal spouse and permits certain actions to be taken by the birth parent without notice to the birth parent's legal spouse

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 24 of the domestic relations law, as added by chapter 325 of the laws of 1969 and subdivision 1 as amended by chapter 305 of the laws of 2008, is amended to read as follows:

2 § 24. Effect of marriage on legitimacy of children. 1. A child heretofore or hereafter born of parents who prior or subsequent to the birth of such child shall have entered into a civil or religious marriage, or shall have consummated a common-law marriage where such marriage is recognized as valid, in the manner authorized by the law of the place where such marriage takes place, is a child born in wedlock for the purposes of this section. A child born in wedlock is the legitimate child of both birth parents notwithstanding that such marriage is void or voidable or has been or shall hereafter be annulled or judicially declared void; provided, however, that any presumption of legitimacy arising under this subdivision shall be deemed null and void where a birth parent satisfies the procedural requirements under subdivision three of this section.

3 2. Nothing herein contained shall be deemed to affect the construction of any will or other instrument executed before the time this act shall take effect or any right or interest in property or right of action vested or accrued before the time this act shall take effect, or to limit the operation of any judicial determination heretofore made containing express provision with respect to the legitimacy, maintenance

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 or custody of any child, or to affect any adoption proceeding heretofore
2 commenced, or limit the effect of any order or orders entered in such
3 adoption proceeding.

4 3. Nothing contained herein shall be deemed to affect the legitimacy
5 of a child born in wedlock if a birth parent denies that such child is
6 the legitimate child of the birth parent's legal spouse by filing a
7 sworn affidavit in the same manner prescribed by section twenty of this
8 article, in which the birth parent shall declare: (a) the legal spouse
9 is or has a history of being abusive toward the birth parent; and (b)
10 the birth parent and legal spouse: (i) did not plan or intend to have a
11 child together; (ii) are living separately; (iii) have lived separately
12 since prior to the birth of the child; and (iv) are not functioning
13 positively as a family. Any person who shall in any affidavit or state-
14 ment required or provided for in this section wilfully and falsely swear
15 in regard to any material fact shall be deemed guilty of perjury and on
16 conviction thereof shall be punished as provided by the statutes of this
17 state and such affidavit shall be deemed null and void.

18 § 2. Paragraph (i) of subdivision (c) of section 516-a of the family
19 court act, as amended by section 15 of part L of chapter 56 of the laws
20 of 2020, is amended to read as follows:

21 (i) a person other than the signatories is a presumed parent of the
22 child pursuant to subdivision one of section twenty-four of the domestic
23 relations law; unless, at any time, a birth parent's marital status
24 shall have been deemed not to affect the child's legitimacy pursuant to
25 subdivision three of section twenty-four of the domestic relations law,
26 in which case the birth parent shall be deemed to have been the only
27 presumed parent of the child at the time of the signing of the acknowl-
28 edgement of parentage;

29 § 3. Subparagraph (i) of paragraph (d) of subdivision 1 of section
30 4135-b of the public health law, as added by section 8 of part L of
31 chapter 56 of the laws of 2020, is amended to read as follows:

32 (i) A person other than the signatories is a presumed parent of the
33 child under subdivision one of section twenty-four of the domestic
34 relations law; unless, at any time, a birth parent's marital status
35 shall have been deemed not to affect the child's legitimacy pursuant to
36 subdivision three of section twenty-four of the domestic relations law,
37 in which case the birth parent shall be deemed to have been the only
38 presumed parent of the child at the time of the signing of the acknowl-
39 edgement of parentage;

40 § 4. Paragraph (b) of subdivision 1 of section 111 of the domestic
41 relations law, as amended by chapter 918 of the laws of 1985, is amended
42 to read as follows:

43 (b) Of the parents or surviving parent, whether adult or infant, of a
44 child conceived or born in wedlock; unless a birth parent's marital
45 status shall have been deemed not to affect the child's legitimacy
46 pursuant to subdivision three of section twenty-four of this chapter, in
47 which case the consent of the birth parent shall be required, and the
48 consent of the birth parent's legal spouse shall be required: (i) for a
49 child placed for adoption more than six months after birth, but only if
50 such legal spouse shall have maintained substantial and continuous or
51 repeated contact with the child as manifested by the standards applica-
52 ble to consent parents under paragraph (d) of this subdivision; or (ii)
53 for a child who is under the age of six months at the time the child is
54 placed for adoption, but only if such legal spouse shall have manifested
55 a willingness to assume full custody of the child and not merely block

1 adoption by others as manifested by the standards applicable under para-
2 graph (e) of this subdivision;

3 § 5. Subdivision 1 of section 111-a of the domestic relations law, as
4 amended by chapter 828 of the laws of 2022, is amended to read as
5 follows:

6 1. Notwithstanding any inconsistent provisions of this or any other
7 law, and in addition to the notice requirements of any law pertaining to
8 persons other than those specified in subdivision two of this section,
9 notice as provided herein shall be given to the persons specified in
10 subdivision two of this section of any adoption proceeding initiated
11 pursuant to this article or of any proceeding initiated pursuant to
12 section one hundred fifteen-b of this article relating to the revocation
13 of an adoption consent, when such proceeding involves a child born out-
14 of-wedlock provided, however, that such notice shall not be required to
15 be given: (a) in the case of the adoption of a child transferred to the
16 custody and guardianship of an authorized agency, foster parent, or
17 relative pursuant to section three hundred eighty-four-b of the social
18 services law or a child transferred to the custody and guardianship of
19 an authorized agency pursuant to section three hundred eighty-three-c of
20 the social services law; or (b) to any person who has previously
21 received notice of any proceeding pursuant to section one hundred
22 fifteen-b of this article. In addition to such other requirements as may
23 be applicable to the petition in any proceeding in which notice must be
24 given pursuant to this section, the petition shall set forth the names
25 and last known addresses of all persons required to be given notice of
26 the proceeding, pursuant to this section, and there shall be shown by
27 the petition or by affidavit or other proof satisfactory to the court
28 that there are no persons other than those set forth in the petition who
29 are entitled to notice. For the avoidance of doubt, notwithstanding any
30 inconsistent provisions of law to the contrary, an affidavit filed by
31 the birth parent pursuant to subdivision three of section twenty-four of
32 this chapter shall be proof satisfactory that the birth parent's legal
33 spouse is not entitled to notice pursuant to this section. For the
34 purpose of determining persons entitled to notice of adoption
35 proceedings initiated pursuant to this article, persons specified in
36 subdivision two of this section shall not include any person who has
37 been convicted of one or more of the following sexual offenses in this
38 state or convicted of one or more offenses in another jurisdiction
39 which, if committed in this state, would constitute one or more of the
40 following offenses, when the child who is the subject of the proceeding
41 was conceived as a result: (A) rape in first or second degree; (B)
42 course of sexual conduct against a child in the first degree; (C) preda-
43 tory sexual assault; or (D) predatory sexual assault against a child.

44 § 6. Paragraph (a) of subdivision 1 of section 240 of the domestic
45 relations law, as amended by chapter 567 of the laws of 2015, is amended
46 to read as follows:

47 (a) In any action or proceeding brought (1) to annul a marriage or to
48 declare the nullity of a void marriage, or (2) for a separation, or (3)
49 for a divorce, or (4) to obtain, by a writ of habeas corpus or by peti-
50 tion and order to show cause, the custody of or right to visitation with
51 any child of a marriage, the court shall require verification of the
52 status of any child of the marriage with respect to such child's custody
53 and support, including any prior orders, and shall enter orders for
54 custody and support as, in the court's discretion, justice requires,
55 having regard to the circumstances of the case and of the respective
56 parties and to the best interests of the child and subject to the

1 provisions of subdivision one-c of this section. Notwithstanding any
2 inconsistent provisions of law, the court shall not require verification
3 of the status of a child under this section if a birth parent has filed
4 an affidavit pursuant to subdivision three of section twenty-four of
5 this chapter, and such affidavit shall be proof satisfactory that a
6 child is not a "child of marriage" under this section. Where either
7 party to an action concerning custody of or a right to visitation with a
8 child alleges in a sworn petition or complaint or sworn answer, cross-
9 petition, counterclaim or other sworn responsive pleading that the other
10 party has committed an act of domestic violence against the party making
11 the allegation or a family or household member of either party, as such
12 family or household member is defined in article eight of the family
13 court act, and such allegations are proven by a preponderance of the
14 evidence, the court must consider the effect of such domestic violence
15 upon the best interests of the child, together with such other facts and
16 circumstances as the court deems relevant in making a direction pursuant
17 to this section and state on the record how such findings, facts and
18 circumstances factored into the direction. If a parent makes a good
19 faith allegation based on a reasonable belief supported by facts that
20 the child is the victim of child abuse, child neglect, or the effects of
21 domestic violence, and if that parent acts lawfully and in good faith in
22 response to that reasonable belief to protect the child or seek treat-
23 ment for the child, then that parent shall not be deprived of custody,
24 visitation or contact with the child, or restricted in custody, visita-
25 tion or contact, based solely on that belief or the reasonable actions
26 taken based on that belief. If an allegation that a child is abused is
27 supported by a preponderance of the evidence, then the court shall
28 consider such evidence of abuse in determining the visitation arrange-
29 ment that is in the best interest of the child, and the court shall not
30 place a child in the custody of a parent who presents a substantial risk
31 of harm to that child, and shall state on the record how such findings
32 were factored into the determination. Where a proceeding filed pursuant
33 to article ten or ten-A of the family court act is pending at the same
34 time as a proceeding brought in the supreme court involving the custody
35 of, or right to visitation with, any child of a marriage, the court
36 presiding over the proceeding under article ten or ten-A of the family
37 court act may jointly hear the dispositional hearing on the petition
38 under article ten or the permanency hearing under article ten-A of the
39 family court act and, upon referral from the supreme court, the hearing
40 to resolve the matter of custody or visitation in the proceeding pending
41 in the supreme court; provided however, the court must determine custody
42 or visitation in accordance with the terms of this section.

43 § 7. This act shall take effect immediately.